

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:04CR92-1

UNITED STATES OF AMERICA

VS.

JEREMY LUJAN AIKEN

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ORDER

THIS MATTER is before the Court on remand from the United States Fourth Circuit Court of Appeals.

On January 9, 2007, the undersigned denied the Defendant's frivolous motion for a downward departure. On February 5, 2007, he signed a notice of appeal at his place of incarceration and the pleading, which was addressed to the Fourth Circuit, was filed in this Court on February 15, 2007. The undersigned accepted the notice of appeal as having been properly filed due to the Defendant's incarceration and sent the appeal to the Fourth Circuit. The Defendant did not move the undersigned for an extension of time within which to file the notice of

appeal for excusable neglect. Therefore, the Court did not enter an order ruling on a motion which was never filed.

IT IS, THEREFORE, ORDERED that the Defendant's notice of appeal was accepted by the undersigned as timely as a result of his status as an incarcerated individual and the appeal was sent to the Fourth Circuit Court of Appeals to which it was addressed.

The Clerk is directed to return the record herein to the Fourth Circuit Court of Appeals for further consideration.

Signed: June 26, 2007

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

